THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.642 of 2007

Dated: 12-12-2007

Between:

1.P.Somasekhara Rao (died per Lrs)
2.Smt.P.Renuka Devi and another.

.... Appellants

AND

1.The Special Commissioner (L.R.)
Government of Andhra Pradesh,
Secretariat Buildings, Hyderabad, and 4 others.

.....Respondents

THE HON'BLE SRI BILAL NAZKI,
THE ACTING CHIEF JUSTICE
AND
THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT APPEAL No.642 of 2007

Dated: 12-12-2007

Judgment: **(Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)**

This Writ Appeal has been filed by the appellants-petitioners aggrieved by an order dated 02.11.2005, passed by a learned single Judge of this Court in W.P.No.9532 of 2006.

Heard the learned Counsel for the parties.

The Writ Petition came to be filed before this Court challenging the order dated 04-10-1997 passed by the first

respondent-Special Commissioner, cancelling the assignment of land in favour of the first appellant, and seeking a direction that the order dated 07-09-1990 passed by the fourth respondent-Mandal Revenue Officer regularizing his encroachment be given effect to. The learned single Judge dismissed the Writ Petition. Therefore, this Writ Appeal has been filed.

At the outset, it may be stated that we are not convinced that G.O.Ms.No.360 dated 15th April, 1989, on which the appellants rely, could be enforced by this Court because we cannot trace it to any power of the Government to issue such a GO.

This position is also not disputed by the learned Government Pleader for Revenue.

The petitioner's encroachment could not have been regularized, as admittedly, the petitioner is not a landless poor and he is in possession as an encroacher of the land in an extent of 7246 square yards, which had been ordered to be regularized in favour of the first appellant alone by the fourth respondent-Mandal Revenue Officer on 07-09-1990. Paras 6, 7 and 8 of G.O.Ms.No.361, dated

15th April 1989, if read together, would make it clear that the land in occupation of an encroacher to the extent of 50 square yards can be regularized in favour of such encroacher. The maximum extent, in our view, for regularization would be 50 square yards and in order to regularize the land more than 50 square yards, the Government had to mention the special reasons. The order dated 07-09-1990 passed by the fourth respondent-Mandal Revenue Officer does not speak of any special reasons for regularizing

7246 square yards of land in favour of the first appellant alone.

We are also told by the learned Government Pleader that the Officer concerned was proceeded against and was departmentally punished.

Even the preamble to G.O.Ms.No.361 dated 15th April 1989 shows that house site pattas can be issued to the encroachers, if they are in occupation of the same for a long period of time. By no stretch of imagination, it can be said that the land measuring 7246 square yards could be regularized as a house site in favour of a landless poor.

In these circumstances, we do not find any merit in this Writ Appeal, and it is, accordingly, dismissed. No costs.

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(Bilal Nazki, A.C.J)

Dated 12th December, 2007

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(Ramesh Ranganathan, J)

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